

H-3105-1 - COOPERATIVE CONSERVATION PROVISIONS

Director's Decision on Extensions Due Segregated Leases
from Leases in Their Extended Term (May 22, 1967)

Oil and Gas Leases: Unit and Cooperative Agreements 3121.1

It is mandatory that an oil and gas lease partly committed to an approved unit agreement be segregated into separate leases, one containing the land within the unit area and one containing the land without the unit area.

A lease segregated because of partial commitment of the base lease to an approved unit agreement will continue for the term thereof but not less than two years, and so long thereafter as oil or gas is produced in paying quantities.

A lease segregated, because of partial commitment to an approved unit, from a lease extended by production, will continue for the life of the production attributable to the base lease, and so long thereafter as oil or gas is produced in paying quantities from the segregated lease.

Beard Oil Company, et al., BLM 039507, etc. (May 22, 1967)

H-3105-1 - COOPERATIVE CONSERVATION PROVISIONS



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240IN REPLY
REFER TO:

May 22, 1967

CERTIFIED MAIL
RETURN RECEIPT REQUESTEDDECISION

Beard Oil Company

Oil and Gas

Bruce Anderson

Decision Affirmed, as Modified

Beard Oil Company has appealed from a decision of our Eastern States Land office dated May 5, 1966, as amended by decision dated May 20, 1966, which segregated from oil and gas lease BLM 039507 those lands containing 45.60 acres which were not committed to the Pettit Zone unit agreement (14-08-0001-8756) effective January 1, 1966, and assigned ES 01213 as the identifying serial number. Lease BLM 039507 retained 94.65 acres which were committed to the unit agreement. The decision stated that the segregated lease ES 01213 would continue for two years from January 1, 1966, and so long thereafter as oil or gas is produced in paying quantities, whereas the lease BLM 039507 committed to the unit agreement was considered as extended by production from Communitization Agreement MC-134, effective February 1, 1965. Lease BLM 039507 was issued December 1, 1955, and extended to November 30, 1965.

The appellant contends the lease BLM 039507 should not have been segregated because it was extended by production prior to the date of unitization. The pertinent statute provides essentially that any lease committed to a unit plan as to part of its acreage shall be segregated into separate leases, one for the lands committed to the unit plan and one for the lands not so committed effective as of the date of unitization, and that the non-unitized lease shall continue in force and effect for the term thereof, but no less than 2 years and so long thereafter as oil or gas is produced in paying quantities. (30 U.S.C. Sec. 226(j) (1964)). This statutory mandate and the implementing regulations (43 CFR 3127.4), compelled the land office action segregating the nonunitized area as lease ES 01213. That action is approved and the decision appealed from is affirmed insofar as it segregated the leases.

The land office decision stated the segregated lease would run for 2 years from January 1, 1966, and so long thereafter as oil or gas is produced in paying quantity. As above indicated, the statute and regulations provide the segregated lease will continue for the term thereof, but for not less than 2 years from the effective date of segregation. The record shows that

H-3105-1 - COOPERATIVE CONSERVATION PROVISIONS

the original lease BLM 039507 was placed in producing status June 25, 1965, as a result of operations under Communitization Agreement MC-134, to which some of the land in lease BLM 039507 has been committed. From this constructive production the term of lease BLM 039507 became indefinite December 1, 1965, after conclusion of the original fixed term thereof. So when lease BLM 039507 was committed in part to the Pettit Zone unit agreement, it was a lease of indefinite term, extended by production.

Where a portion of a producing lease, which has been extended by production, is committed to a unit agreement the segregated lease covering the nonunitized portion of the lands is extended for an indefinite "so long as" term. Husky Oil Company, Wyoming 084971 (March 23, 1961). See also Ann Guyer Lewis, et. al., 68 I.D. 180 (1961). Thus it was error for the land office to state that the segregated lease ES 01213 was extended only for 2 years from January 1, 1966. The segregated lease ES 01213 will continue so long as the base lease BLM 039507 exists, and for so long thereafter as oil or gas is produced in paying quantities from within the lease ES 01213. However, payment of rental and/or royalty which may accrue for the land within lease ES 01213 must be paid in accordance with the pertinent regulations. The land office decisions of May 5 and May 20, 1966, are modified accordingly.

Beard Oil Company and Bruce Anderson are allowed the right of appeal to the Secretary of the Interior, in accordance with the regulations in 43 CFR Part 1840. See enclosed Form WO 1844-1 and Circular 2137. If an appeal is taken, it must be filed with the Director, Bureau of Land Management, Washington, D.C. 20240. The filing fee will be \$5. In taking an appeal there must be strict compliance with the regulations. If an appeal is filed the appellant will have the burden of proving, by presenting positive and substantial evidence, wherein the decision appealed from is in error.

Acting Chief,
Office of Appeals and Hearings

Enclosures

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